

REMARKS

Claims 1-3, 6-19, 21, 22, 35, and 36 are pending in the application. Claims 23-27, 29-33, and 37 have been withdrawn. By this amendment, claim 1 has been amended, claim 6 has been cancelled, and no new claims have been added.

The Applicant wishes to thank the Examiner for a December 23, 2008, Examiner's interview during which the Examiner acknowledged a misunderstanding with respect to claim 1. As discussed during the interview, claim 1 recites receiving an indication of the one or more subscriber-desired services selected by the subscriber via an electronic user interface presented by the mobile wireless device, the mobile wireless device initially having no non-emergency services provisioned on a mobile wireless communication network. Thus, the indication of the one or more subscriber-desired services selected by the subscriber is received from the unactivated mobile wireless device and not from the wireless service provider or an activated wireless device, as in the published U.S. Patent Application having Publication No. 2003/0013434 filed by Rosenberg et al.

If the Examiner decides to conduct another search as a result of this misunderstanding, Applicant respectfully requests withdrawal of the finality of this Office Action to avoid the need to file an RCE and its associated fee.

Rejection of Claims 1 and 6 under 35 USC §112

The Examiner has rejected claims 1 and 6 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Specifically, claim 1 stands rejected based on the recitation of "the subscriber" in line 9 as lacking proper antecedent basis. Applicant wishes to thank the Examiner for pointing out this oversight. Claim 1 has been amended to provide antecedent basis for this element.

Claim 6 stands rejected as indefinite for failing to point out what is included (or excluded) by the claim language. Claim 6 also stands rejected as an omnibus type claim and for reciting an "enhanced service" which is asserted to be

unclear. Applicant has cancelled claim 6 without prejudice to its inclusion in a future continuation or divisional application.

Rejection of claims as unpatentable in view of Rosenberg et al.

Claims 1-3, 19, 21-22 and 36 stand rejected as anticipated by U.S. Application Publication No. 2003/0013434 filed by Rosenberg et al. and claims 7-18 stand rejected as rendered obvious by Rosenberg et al. As explained above, independent claim 1 recites receiving an indication of one or more subscriber-desired services from an unactivated mobile wireless device and not from a wireless service provider or an activated wireless device.

In contrast, referring to Figure 4, Rosenberg et al. teaches a wireless device user 47 accesses an activation web site 48 to activate wireless services on wireless device 49 and select a wireless service plan. (Page 5, paragraph 62). As illustrated in Figure 4, the wireless device user 47 uses a computing device other than the wireless device 49 to access the activation web site 48. After filling out on-line forms, the wireless device user 47 submits the information to the activation web server 51. (Page 5, paragraph 64). The activation web server 51 creates a record containing the information submitted on activation web site 48. (Page 5, paragraph 64). Then, a messaging server 55 registers the record with one or more wireless application servers 56a-c. (Page 5, paragraph 67).

The activation web server 51 selects an IP address, encodes it into an activation code, and posts the activation code on the activation web site 48. (Page 5, paragraph 66 and 68). The wireless device user 47 enters the activation code into the wireless device 49. (Page 6, paragraph 69). The wireless device 49 has an activation module 57 that decodes the activation code and registers the IP address into the memory of the wireless modem in wireless device 49, thereby enabling wireless device 49 to access the wireless services provided by wireless service provider 21. *Id.* In an alternative embodiment, the wireless device user 47 may activate wireless services on the wireless device 49 by calling a customer service representative associated with wireless service provider 50. (Page 5, paragraph 72).

Thus, Rosenberg et al. teaches using a computing device (other than the wireless device 49) to access a website to select a wireless service plan and obtain an activation code. After the activation code is entered into the wireless device 49, "the wireless services are fully activated and ready for use on wireless device 49." (Page 6, paragraph 76). In other words, the wireless device is activated before it is used on the network. Further, the reference teaches that the messaging server 55 registers the record created by the activation web server 51 with the wireless application servers 56a-c before the wireless device 49 accesses the network. Thus, Rosenberg et al. simply does not teach or suggest using an unactivated mobile wireless device to provision services on a mobile wireless communication network.

Independent claim 1 recites receiving an indication of one or more subscriber-desired services via an electronic user interface presented by the mobile wireless device, the mobile wireless device initially having no non-emergency services provisioned on a mobile wireless communication network. Because Rosenberg et al. fails to teach or suggest these elements of claim 1, Rosenberg et al. fails to anticipate or render obvious the invention of claim 1. Claims 2, 3, 7-18, 35, and 36 depend from claim 1 and are allowable over Rosenberg et al. for at least the same reasons claim 1 is allowable over this reference.

Independent claim 19 recites receiving an indication of one or more subscriber-desired services via an electronic user interface presented by the mobile wireless device, the mobile wireless device initially having no non-emergency services provisioned on the mobile wireless communication network. As explained above, Rosenberg et al. does not teach or suggest these elements. Therefore, claim 19 is allowable over Rosenberg et al.

Independent claim 21 recites means for receiving wireless communications entered into a user interface of a mobile wireless device, the wireless communications comprising an indication of the desired services and subscriber personal information, and the mobile wireless device initially having no non-emergency services provisioned on the mobile wireless communication network. As explained above, Rosenberg et al. does not teach or suggest these elements. Therefore, claim 21 is allowable over Rosenberg et al.

Independent claim 22 recites receiving user personal information associated with a user from an unactivated mobile wireless device, the unactivated mobile wireless device initially having only emergency services provisioned on the mobile wireless communication network, the user personal information having been entered by the user into a user interface presented by the unactivated mobile wireless device. The claim also recites receiving an indication of services desired by the user wirelessly from the unactivated mobile wireless device, the desired services having been selected by the user using the interface presented by the unactivated mobile wireless device. As explained above, Rosenberg et al. does not teach or suggest these elements. Therefore, claim 22 is allowable over Rosenberg et al.

No fee is deemed due. However, if additional fees are believed necessary, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 04-0258 of Davis Wright Tremaine LLP.

All of the claims pending in the application are believed to be allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

If questions remain regarding this application, the Examiner is invited to contact the undersigned at (206) 757-8021.

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